

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Michele D. Miller,

Plaintiff

v.

Long Drug Stores California, LLC,

Defendant

Case No.: 2:22-cv-01150-JAD-VCF

**Order Continuing *In Forma Pauperis*  
Status for Appeal**

[ECF No. 43]

The United States Court of Appeals for the Ninth Circuit referred this matter back to this court for the limited purpose of determining whether *in forma pauperis* status should continue for this appeal. 28 U.S.C. § 1915(a)(3) provides that “[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.”<sup>1</sup> An appeal is taken in “good faith” when it seeks review of any issue that is “non-frivolous.”<sup>2</sup> An issue “is frivolous where it lacks an arguable basis either in law or in fact.”<sup>3</sup>

In this employment-discrimination case, plaintiff Michele Miller brought racial-discrimination, hostile-work-environment, and retaliation claims against her former employer, Long Drug Stores California, LLC d/b/a CVS.<sup>4</sup> CVS moved to compel arbitration and provided credible evidence showing that Miller e-signed an arbitration agreement through CVS’s secure portal prior to her first day.<sup>5</sup> She responded that the agreement was fraudulent, contending that someone else must have forged her signature and presenting evidence purporting to show that

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<sup>1</sup> 28 U.S.C. § 1915(a)(3).

<sup>2</sup> *Hooker v. Am. Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002).

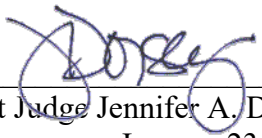
<sup>3</sup> *See Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

<sup>4</sup> ECF No. 6.

<sup>5</sup> ECF No. 24.

1 she did not log into the new-hire portal when CVS said she did.<sup>6</sup> I granted CVS's motion and  
2 dismissed Miller's case, finding that CVS had "shown by a preponderance of evidence that  
3 Miller signed an arbitration agreement that governs her discrimination and retaliation claims."<sup>7</sup> I  
4 assume that Miller will raise similar issues, as well as those she has raised in her recent motion to  
5 alter judgment,<sup>8</sup> on appeal. I find that Miller's evidentiary concerns about the authenticity of the  
6 signed arbitration agreement that CVS produced are brought in good faith. So I conclude that  
7 she is entitled to *in forma pauperis* status for this appeal.

8       Accordingly, IT IS HEREBY ORDERED that **Michele Miller's *in forma pauperis***  
9 **status should CONTINUE for this appeal** (Ninth Cir. Case No. 24-17). **The Clerk of Court**  
10 **is DIRECTED to notify the Ninth Circuit Court of Appeals that this court DOES NOT**  
11 **elect to revoke Michele Miller's *in forma pauperis* status.**

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14 U.S. District Judge Jennifer A. Dorsey  
15 January 23, 2024  
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<sup>6</sup> ECF No. 30.

23 <sup>7</sup> ECF No. 37 at 5.

<sup>8</sup> ECF No. 38.